

broadcasters or between broadcasters and other video providers, or both? Even if we conclude that some or all of these media should be analyzed together as part of the same product market, is it necessary also to look separately at the broadcast television market? Would consolidation of television station ownership in local markets provide more and better programming? Would permitting one entity to own more television stations in a local market enable the broadcast television service to compete more effectively with MVPDs? Would such combined ownership benefit viewers and/or advertisers through a strengthened competitive position? Is relaxation of the rule warranted in smaller markets to help broadcasters compete with other MVPDs and achieve economies of scale that can allow provision of more responsive and diverse programming to consumers?

85. Television broadcasters assemble their streams of content through a combination of in-house production and outside sources. How does the local market structure of television station ownership affect the market for acquiring content? Would significant consolidation of television stations in a local market have the potential to harm program syndicators that sell their programming directly to individual local stations? Can our local television ownership rules affect this market and, if so, how should we take account of this effect in crafting our local television ownership rules? Our current local television ownership limit may not be reached in particular markets. How can we account for under-limit situations when predicting the effect of changes in the rules on achievement of our goals?

2. Local Radio Ownership Rule

86. Are the current numerical limits appropriate to achieve the goals of the local radio ownership rule? The local radio ownership rule currently distinguishes between AM and FM services.¹²⁸ Does it continue to make sense to have sub-caps for the two services? Have recent technological advances eliminated the need for this aspect of the rule? What part should low-power FM stations play in the rule? Should we account for other sources of audio programming in applying the rule? Should the degree of consolidation of other media in the local market be a factor in the rule, or should we continue to count only the number of radio stations in a market in applying the rule? Should this rule take account of market share?

3. Newspaper/Broadcast Cross-Ownership Rule

87. With regard to the newspaper/broadcast cross-ownership rule, should we treat newspaper-television combinations differently from newspaper-radio combinations, as we do in the 2006 presumptive standard?¹²⁹ Are some goals or metrics more relevant for one or the other type of combinations? Are particular market participants more heavily affected by the rule? Which elements of market structure are most important for measuring the effects of this rule on our policy goals? Would relaxing the newspaper/broadcast cross-ownership rule result in economies of scale and scope that could help newspapers to survive? Alternatively, do the problems faced by newspapers result from extraneous factors that make relief in this area irrelevant? For example, statistics show that fewer people are reading newspapers and, instead, are increasingly getting news and information from nontraditional sources.¹³⁰ Statistics also demonstrate an increase in the degree of penetration of new media, including online

¹²⁸ See *supra* ¶¶ 20-21.

¹²⁹ See *supra* ¶¶ 22-23.

¹³⁰ See Andrew Kohut, Carroll Doherty, Michael Dimock, Elizabeth Meuller Gross, Nilanthi Samaranayake, and Peyton Craighill, *Pew Research Center Biennial News Consumption Survey*, "Newspaper Readership Declines; Internet News Increases," (chart) PEW RESEARCH CENTER FOR PEOPLE AND THE PRESS (2008) ("Pew Survey") at 3. The Pew Center reports that of people it surveyed for its Biennial News Consumption Survey, the percentage of respondents stating that they had read a newspaper "yesterday" declined from 58 percent in 1994 to 34 percent in 2008. In contrast, the percentage of respondents stating that they had gone online for news three or more days per week rose from two percent in 1996 to 37 percent in 2008.

websites, and social media.¹³¹ Given the fragmentation of sources of news, would structural relief help newspapers sufficiently to result in a net gain in local news and information? Should any such relief operate via a revised rule or via a waiver standard? If the latter, what type of waiver standard should be applicable? Is the presumptive standard adopted in the 2006 *Quadrennial Review Order* able to further our competition, diversity, and localism goals as well as result in economies of scale and scope that could help newspapers survive? Is a rule that relies on presumptions preferable in order to achieve our goals? What factors should a relaxed rule or waiver standard take into account? Should any relaxation of the rule continue to account for the number of voices in a community? For instance, is there a basis in the current marketplace for finding that cross-ownership only in the largest markets would be in the public interest? Should we take into account market share of the media entities that would be combined? If the number of voices is relevant, how should voices be defined for this purpose?

4. Radio/Television Cross-Ownership Rule

88. With regard to the radio/television cross-ownership rule, are our current procedures for counting voices in a market achieving our goals or should they be modified?¹³² Have recent technological developments had an impact on the voices that should be counted when applying the rule? Does our current rule for counting voices make sense in today's media marketplace? If so, do the media voices considered in this rule's voice count adequately encompass relevant media outlets? How should the Commission justify a decision to retain the particular numerical limits contained in the current rule? What type of waiver standard should be applicable?

5. Dual Network Rule

89. Would the dual network rule be more effective if it targeted mergers among networks with specific characteristics rather than specifically targeting mergers among the four major networks?¹³³ If so, what characteristics should we consider, and how should we measure them? We seek comment on whether a merger between or among any of the top-four broadcast networks would harm competition in the program acquisition market.¹³⁴ How do we balance any conflicting goals underlying this rule? We seek comment on the appropriate metrics to use in analyzing the competitive effects of the dual network rule on the program acquisition market. Should the Commission measure shares of expenditures on video entertainment programming?¹³⁵ Is the dual network rule necessary to protect competition in the national advertising market?¹³⁶ We seek comment on what metrics the Commission should use to make this determination. Should it rely on measurements of the shares of national advertising?¹³⁷

¹³¹ See comScore, Inc. *comScore Media Metrix Ranks Top 50 U.S. Web Properties for October 2009*, (press release), Nov. 19, 2009. According to market research firm comScore, during the month of October 2009, Google Sites ranked as the most popular online property, with 164 million visitors, followed by Yahoo! Sites with 158 million visitors and Microsoft Sites with 133 million visitors. *Ibid.* Press reports indicate that the *New York Times* website attracts 20 million readers worldwide. Gabriel Sherman, *New York Times Ready to Charge Online Readers*, NEW YORK, Jan. 17, 2010, available at http://nymag.com/daily/intel/2010/01/new_york_times_set_to_mimic_ws.html (visited Jan. 20, 2010).

¹³² See *supra* ¶¶ 25-26.

¹³³ See *supra* ¶ 27.

¹³⁴ See 2002 *Biennial Review Order*, 18 FCC Rcd at 13852 ¶ 605.

¹³⁵ See *id.* at 13852 ¶ 604.

¹³⁶ See *id.* at 13853-54 ¶ 607.

¹³⁷ See *id.* at 13853-54 ¶¶ 607-08.

B. Structural Analysis

90. If we find that the existing media ownership rules are no longer necessary in the public interest as the result of competition, we must modify or eliminate the rules. If we modify the rules, should we use a bright line approach or adopt an alternative approach, such as analyzing changes in ownership on a case-by-case basis, or a hybrid of the two. We invite comment on the benefits and disadvantages of bright line rules versus a case-by-case approach.¹³⁸ Proponents of bright line rules should discuss why we should maintain such an approach and should address the questions, asked above, as to whether any modifications should nonetheless be made to our current rules. For example, should we retain numerical limits in our rules affecting ownership of radio stations but revise the current limits? Alternatively, should we adopt a new rule structure? Proponents of a case-by-case approach should discuss whether there are certain ownership rules that are particularly suited to a case-specific review process, or whether a case-by-case approach should be applied to all the ownership rules. We discuss each type of structure below.

91. In addition, if we determine that the existing rules are not necessary in the public interest as the result of competition, we seek comment below on whether we should adopt a broad cross-media approach to media ownership. Such an approach could replace in whole or in part the focus of each of our current rules on specific types of broadcast outlets. We seek comment on the costs and benefits of outlet-specific rules as compared to rules that apply to all media together. We also seek comment on whether a broad cross-media approach would be consistent with the relevant court cases that have reviewed the Commission's ownership rules. We ask commenters specifically, when discussing possible approaches to structuring the ownership rules, to address compatibility of the rules with the court remands in *Sinclair*, *Prometheus*, and *Lamprecht*.¹³⁹ Do the holdings in these cases limit the Commission's ability to adopt specific ownership limits? Do the holdings require the Commission to consider any specific factors going forward? Do these cases suggest that a particular approach to ownership regulation is more likely than others to satisfy the courts?

1. Bright Line Rules

92. Would maintaining bright line rules advance our policy goals? We invite comment on any benefits or negative consequences of retaining the current approach. Do bright line rules adequately take into consideration today's media marketplace? Do bright line rules promote efficiency in license transfers and in planning business transactions? Are lenders more likely to provide financing in a climate of regulatory certainty? Are there other benefits we should consider in maintaining bright line rules? Conversely, bright line rules do not fully account for either changing economic conditions within a particular local market or all of the variations that may exist across markets. The fairness and predictability of bright line rules must be weighed against their inflexibility and insensitivity to particular circumstances. To what extent does the possibility of waivers mitigate any disadvantages of bright line rules?¹⁴⁰ Are there other disadvantages of bright line rules we should consider?

¹³⁸ During the Media Bureau's November 2009 workshops, there was general support among the broadcasters and other representatives for bright line structural ownership rules with some flexibility built in for exceptional circumstances where a waiver would be appropriate. See, e.g., NAB Comments at 6-7.

¹³⁹ See *supra* nn. 40, 47, 50, 59, and 121.

¹⁴⁰ Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

2. Case-by-Case Approach

93. Alternatively, if we determine that the existing rules must be modified, should we adopt a case-by-case approach instead of adopting new or revised bright line rules? A case-by-case approach allows room for consideration of individual circumstances, thereby increasing the likelihood that a decision with respect to a specific transaction will best serve a particular market. A comprehensive review of all the relevant variables in a local market permits a regulator to render a decision that is appropriate for that market at that time. The flexibility of a case-by-case approach is an advantage in the dynamic and rapidly evolving media marketplace. Are there other advantages of a case-by-case approach we should consider?

94. A case-by-case approach also has disadvantages. It can make the decision-making process less predictable, which can generate uncertainty, posing challenges for market participants and their lenders. In addition, a complicated set of precedents can evolve from a case-by-case approach, compounding uncertainty and confusion for market participants. A compelling set of facts in a particular situation can lead to an unexpected exception or introduce new variables to be considered. Over time, simply understanding the precedents may become a daunting task. The administrative burdens associated with a case-by-case approach are high relative to a bright line approach. A comprehensive review process that accounts for the particular conditions of a local market can prolong decisionmaking and thus chill market activity. Are there other disadvantages to a case-by-case approach that we should consider?

3. Hybrid Approach

95. We seek comment on whether we should adopt a hybrid of the two approaches for any or all of our ownership rules. For example, a hybrid rule (such as the newspaper/broadcast cross-ownership rule as modified by the Commission in the 2006 ownership review) could define parameters that predict a likely outcome in most cases while allowing room, within specified guidelines, for an analysis of individual circumstances. Commenters are asked to explain how their recommended approaches would affect the various stakeholders, such as end users, advertisers, content creators, and platforms.

96. As an alternative hybrid approach, we invite comment on whether any of our ownership rules should incorporate additional factors to be considered when the Commission reviews assignment and transfer applications. Additional factors could potentially include local economic and financial conditions, the applicant's financial status and ability to access capital, the size of the local market, the size of the applicant, the holdings of the applicant's competitors in the market, the applicant's audience ratings and/or advertising revenues, the applicant's history of promoting innovation, or the effects of the digital television transition. Some of our media ownership rules already incorporate some of these factors.¹⁴¹ Proponents of a hybrid approach should explain which factors they believe should be considered and why and how the Commission should take those factors into account. Should certain factors weigh more heavily than others? Opponents of such an approach should explain why the Commission should not have the flexibility to take these types of factors into account.

4. Broad Cross-Media Approach

97. Whether or not we adopt a bright line, a case-by-case, or a hybrid approach, if we determine that the existing rules are no longer necessary in the public interest as the result of competition, we could adopt, as an alternative, a broad cross-media approach to regulating media ownership. Such an approach would look at all conditions in a geographic market in determining the degree of permissible combined ownership in that market. We invite comment on any benefits or disadvantages of adopting rules that consider all media in a market together. Would a cross-media approach better account for changes in the media marketplace and today's market realities? To implement such an approach, we

¹⁴¹ For example, the local radio ownership limits are based on market size (*i.e.*, the number of radio stations in a market) and the local TV ownership rule prohibits combinations among the four highest ranked stations in a market.

would have to establish parameters for measuring the significance of conditions in one type of media for ownership of other types of media. What parameters should we use? How should we define the market, and what components of the media marketplace should we take into account?

98. In particular, as discussed above, changes in technology are reshaping how people get their news and public affairs information. New media, including the Internet, have joined newspapers and broadcast stations as important sources of such information. Consumers are using mobile devices to obtain news and information when away from home or offices. It is not clear whether these new media yet play a significant role in originating programming and information. We seek comment on the extent of these technological and marketplace changes and whether and, if so, how we should adjust our rules to account for them. Should our rule structure account for all major sources of news and public affairs information? What sources should be included? If there is a decline in demand for mainstream news media, should we take that into consideration? How should our rules account for trends in the news media?

99. If we do consider other sources of news in our ownership rules, how should we treat new media outlets that are owned by traditional media sources? For instance, traditional media outlets also use the Internet as means of expanding their reach. Print newspapers offer online versions; broadcasters maintain interactive websites. Partnerships have emerged to take advantage of the synergies of delivering content across different platforms. In fact, many of the most popular news-oriented websites are owned by companies that also own traditional media outlets such as newspapers, radio and TV stations, and cable programming networks. Of the 25 most-visited news websites in 2008, 20 shared corporate owners with cable television, broadcast television, or newspaper properties.¹⁴² Should we treat websites owned by traditional media companies differently from independently-owned websites? How should we treat online aggregators that do not engage in significant original content production themselves, but rather provide selective access to content created by other online content providers and/or traditional media sources? How should we treat other types of arrangements for shared news sources? How do shared news services affect the coverage of local events? Are these arrangements permissible under the cross-ownership rules and should they be?

100. In the *2002 Biennial Review Order*, the Commission attempted a cross-media approach to media ownership by developing a “diversity index.”¹⁴³ The Third Circuit vacated and remanded that aspect of the order as insufficiently supported by the record.¹⁴⁴ If we take a cross-media approach, how can we avoid the shortcomings the court found in the 2002 order?

C. Other Issues Related to Media Ownership

101. We also seek comment on whether we should expand our review in this proceeding to include and consider two issues that may relate to our media ownership rules.

1. Digital Contours

102. The Commission’s cross-ownership and local television ownership rules employ analog broadcast television contours as one criterion in determining whether the applicable rule is violated.¹⁴⁵

¹⁴² PROJECT FOR EXCELLENCE IN JOURNALISM, *THE STATE OF THE NEWS MEDIA 2009: AN ANNUAL REPORT ON AMERICAN JOURNALISM* (2009), available at http://www.stateofthemediamedia.org/2009/narrative_online_ownership.php?media=5&cat=5.

¹⁴³ *2002 Biennial Review Order*, 18 FCC Rcd at 13790-91 ¶¶ 432-35.

¹⁴⁴ *Prometheus*, 373 F.3d at 402-03.

¹⁴⁵ The local television ownership rule provides that any entity may own two television stations in the same DMA if the Grade B contours of the stations do not overlap. The Commission defines the analog Grade B contour in 47 C.F.R. § 73.683. In addition, to determine the number of independent “voices” post merger for purposes of applying

However, now that television stations have completed the transition to digital television service and ceased broadcasting in analog, analog contours are no longer relevant. Further, as discussed below, analogous digital contours do not exist for all of the analog contours previously employed in the media ownership rules. We invite comment on whether to continue using broadcast television contour for purposes of the ownership rules, and if so, how to revise the rules to implement the technical changes due to the transition to digital television service.

103. The Commission has defined two digital television service contours, the digital noise limited service contour (“NLSC”)¹⁴⁶ and the DTV principal community contour.¹⁴⁷ The Commission developed the digital NLSC to approximate the same probability of service as the Grade B contour and has stated that the two are roughly equivalent.¹⁴⁸ However, the Commission’s digital television service rules do not include an equivalent contour for the analog Grade A contour.¹⁴⁹ The DTV principal community contour is not equivalent to the analog Grade A contour or the analog city grade contour.¹⁵⁰ Specifically, the DTV principal community contour is smaller than the noise-limited contour and larger than a Grade A contour. The size differential between the analog Grade A contour and the DTV principal community contour would be significantly greater for VHF than for UHF stations. Using different

the voice count, the rule counts only those stations the Grade B signal contours of which overlap with the Grade B signal contour of at least one of the stations in the proposed combination. *Id.*; see also 47 C.F.R. § 73.3555(b)(1)(ii). The newspaper/broadcast cross-ownership rule prohibits certain combinations if the Grade A contour of a television station encompasses the entire community in which the paper is published. The analog Grade A contour is defined in 47 C.F.R. § 73.623. Similarly, the radio/television cross-ownership rule is triggered when a Grade A contour of a television station encompasses the entire community of license of an existing or proposed commonly-owned radio station. The Commission defines the analog city grade contour in 47 C.F.R. § 73.685. To qualify for the presumptive television satellite exemption to the local television ownership rule, the Commission requires satellite television stations to demonstrate that no analog city grade contour-overlap exists between the parent station and the television satellite station. *Television Satellite Stations Review of Policy and Rules*, Report and Order, MM Docket No. 87-8, 6 FCC Rcd 4212 (1991). The analog city grade contour is defined in 47 C.F.R. § 73.685.

¹⁴⁶ The Commission defines the digital NLSC in 47 C.F.R. § 73.622(e).

¹⁴⁷ The DTV principal community contour is defined in 47 C.F.R. § 73.625(a).

¹⁴⁸ See 47 C.F.R. § 76.54(c); see also *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, MM Docket No. 00-3916, FCC Rcd 5946, 5956 ¶ 22 (2001); *KEYU(TV)*, *Borger, Texas, Application for Assignment of License*, Letter, 25 FCC Rcd 1204 n.3 (MB 2010) (citing *Report To Congress: The Satellite Home Viewer Extension And Reauthorization Act of 2004; Study of Digital Television Field Strength Standards and Testing Procedures*, ET Docket No. 05-182, 20 FCC Rcd 19504, 19507, ¶ 3 (“For digital television stations, the counterpart to the Grade B signal intensity standards for analog television stations are the values set forth in Section 73.622(e) of the Commission’s Rules describing the DTV noise-limited service contour.”)).

¹⁴⁹ See *Application for Transfer of Control Nassau Broadcasting II, LLC, etc.*, Letter, 25 FCC Rcd 1851 (MB 2010) (using the NLSC contour in lieu of the former analog Grade A contour as a measure of license encompassment of the radio station’s city of license to trigger cross-ownership analysis and in lieu of the former analog Grade B contour to determine whether there would be a sufficient number of independent voices in the affected markets following consummation of the proposed transaction).

¹⁵⁰ The Commission intentionally defined the DTV principal community contour to be larger than the city grade contour to provide broadcasters with flexibility in siting and building their DTV facilities during the transition, while still preventing stations from straying too far from their community of license. See *Application of Selenka Communications, LLC (Assignor) and WAOW-WYOW Television, Inc. (Assignee) for Consent to Assign the License of Station WBLJ(TV), Crandon, Wisconsin*, Memorandum Opinion and Order, 25 FCC Rcd 278 (MB 2010) (stating that the digital principle community contour is not an equivalent standard to the analog city grade contour for purposes of determining whether a proposed satellite station qualifies for the presumptive satellite exemption to the duopoly rule).

contours could have a significant effect on the application of the cross ownership rules and local television ownership rules. For instance, selecting larger contours could result in a more restrictive newspaper/broadcast cross-ownership rule. In other instances, applying a larger contour could allow entities to own more broadcast stations, as may be the case with the radio/television cross-ownership rule.

104. Should we continue to use contour encompassment as a triggering factor and to count voices in a market as currently used in the media ownership rules? If we continue to use contours to determine compliance or applicability of a rule, what contours should we use? Should we substitute the NLSC for the Grade B contour? Is there a suitable substitute for the Grade A contour? Should we consider using the same digital contour for all of the ownership rules, and not distinguish between different geographic areas, such as the analog Grade A, Grade B, and city grade contours? What are the benefits or harms of adopting a single contour standard? Should we continue to require 100% encompassment for a rule to be triggered? For instance, should we require 100% encompassment of a city of newspaper publication in order for a combination to trigger cross-ownership restrictions?

105. Alternatively, should we eliminate the use of contours in our rules and adopt a different analytical approach? If so, what criteria should we use to determine when a rule is triggered? If we adopt ownership rules that require a certain number of “voices” to remain post-merger, how should we count those voices if we do not use a contour-based method? Should we count voices in geographic areas, such as an Arbitron metro or a television DMA? For instance, if we use Arbitron metro areas for this purpose, how would we address areas in which Arbitron has not defined radio markets?¹⁵¹ What are the benefits or harms of substituting a geographic-based approach for a contour approach?

2. National Broadband Plan

106. To facilitate nationwide broadband deployment, the Commission released and sent to Congress its broadband plan, “Connecting America: The National Broadband Plan” on March 16, 2010.¹⁵² The plan sets out a plan of action and a roadmap “to spur economic growth and investment, create jobs, educate our children, protect our citizens, and engage in our democracy.”¹⁵³ We ask commenters generally whether the broadband plan is a relevant factor to consider when developing broadcast ownership rules. Does access to broadband affect our policy goals? How does access to audio and video content available over broadband factor into our competition analysis? How does access to broadband affect our diversity goals?

107. What, if any, specific aspects of the broadband plan are relevant here?¹⁵⁴ For example, would ubiquitous access to broadband service in this country impact our media ownership policy? Should the competitive impact of the Internet be given more weight if the percentage of consumers with broadband access substantially increases? The plan finds that mobile services are playing an increasingly

¹⁵¹ *But see supra* n.41.

¹⁵² Broadband Plan, available at <http://download.broadband.gov/plan/national-broadband-plan.pdf>; see also American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, § 6001(k) (2009) (mandating that the Commission develop a national broadband plan ensuring that every American has access to broadband capability and to set benchmarks for meeting that goal) (“Recovery Act”) (codified at 47 U.S.C. § 1305(k)). The Recovery Act was signed into law on February 17, 2009. The Recovery Act also charges the Department of Agriculture’s Rural Utilities Service and the Department of Commerce’s National Telecommunications and Information Administration with making grants and loans to expand broadband deployment and for other important broadband projects. Congress provided \$7.2 billion for these efforts.

¹⁵³ News Release, FCC to Send National Broadband Plan to Congress, Plan Details Actions for Connecting Consumers, Economy with 21st Century Networks (Mar. 15, 2010) (citing statement by Chairman Julius Genachowski).

¹⁵⁴ See also *supra*, Section III.A, for a discussion of our competition analysis.

important role in our lives and our economy.¹⁵⁵ Should the Commission's policy goals to foster mobile services impact media ownership rules? Should the fact that consumers are increasingly getting news and programming through their mobile devices impact our decisions in this proceeding?

V. PROCEDURAL MATTERS

A. Ex Parte Rules

108. The inquiry this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁵⁶ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹⁵⁷ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's Rules.¹⁵⁸

B. Comment Filing Procedures

109. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

¹⁵⁵ Broadband Plan, Chapter 2.

¹⁵⁶ 47 C.F.R. §§ 1.200 *et seq.*

¹⁵⁷ *See* 47 C.F.R. § 1.1206(b)(2).

¹⁵⁸ 47 C.F.R. § 1.1206(b).

110. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

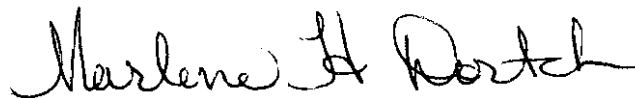
111. Availability of Documents. Documents in this proceeding will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

112. Information. For additional information on this proceeding, contact Jennifer Tatel or Amy Brett of the Industry Analysis Division, Media Bureau, at (202) 418-2330.

VI. ORDERING CLAUSE

113. Accordingly, IT IS ORDERED, that pursuant to the authority contained in Sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152(a), 154(i), 303, 307, 309, and 310, and Section 202(h) of the Telecommunications Act of 1996, this Notice of Inquiry IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Marlene H. Dortch". The signature is fluid and cursive, with the first name "Marlene" being the most prominent part.

Marlene H. Dortch
Secretary

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*,
MB Docket No. 09-182

I am eager to begin--and complete--this review of the broadcast ownership rules. I want to thank the FCC staff in advance for the hard work that I know they will put into this critical review. It is not an easy undertaking. Nor should it be. I have many times expressed my displeasure with the way this review was handled in its previous two incarnations. Hopefully, the third time is the charm. I am confident that the proceeding we launch today will be different in important ways—asking the questions that really need to be asked, collecting meaningful data and listening, hopefully, to the American people who are ultimately the ones most affected by these rules.

While we go into the proceeding with an open mind and a desire to gain a thorough understanding of the current circumstances existing in today’s media landscape, we would be doing ourselves and the American public a true disservice if we didn’t rely as well on information already in our possession—including the records in the localism proceeding, previous media ownership hearings and proceedings that examine the state of minority ownership.

Based on staff analysis as laid out in the Notice of Inquiry, there has been a 39% decrease in the number of commercial radio station owners between 1996 and 2010. In addition, we have seen a 33% decrease in the number of television station owners over that same time period. It is difficult to fully quantify the harmful effects that media consolidation has had on the news, information and entertainment we receive. Fewer and fewer voices do not an informed electorate and robust democracy make.

Our country urgently needs a media that is reflective of our diverse communities and interests. While minorities currently comprise roughly 34% of the nation’s population, they own only 3.15% of full-power commercial TV stations. And, while women make up 51% of the population, they only own 5.87% of full power commercial TV stations. These numbers are appalling. If a central tenet of our FCC mandate is to promote diversity in the media, which it is, then we need diverse ownership policies to help that happen. Anyone who actually thinks that who owns the media doesn’t significantly affect how our country is being informed is not paying attention. Shortchanging ownership diversity is shortchanging our civic dialogue.

I believe—and I think most Americans believe—that this nation deserves a media that is competitive, diverse and paying attention to the individual localities and communities in which we reside. This is absolutely vital. Certainly in this Quadrennial we need to pay attention to market realities and all the new media innovations that have developed since our last review, but uppermost in our minds must be crafting rules that serve the goals of democracy-building and democracy-maintenance.

I look forward to a full and creative record nourished by the widest possible public participation. I urge any and all interested stakeholders to share their thoughts and experiences with us. And I would note that we seek responses not just to the questions specifically asked in this Notice, but to other questions and concerns that strike particular stakeholders as relevant to this proceeding. Finally, I hope that the Commission will “go on the road” in the months ahead to hear directly from consumers and citizens. I know of no better way for us to educate ourselves about the problems faced by, and the solutions sought by, the American people.

**STATEMENT OF
COMMISSIONER ROBERT M. MCDOWELL**

Re: *2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*,
MB Docket No. 09-182

In formally launching the 2010 round of our media ownership review, the Notice of Inquiry (“NOI”) outlines many of the challenging difficulties that the regulated media face in a turbulent time of their transition to the digital media era. Broadcast stations and daily newspapers are grappling with falling audience and circulation numbers, shrinking advertising revenue and declining employee rosters as online sources – both those of competitors and the traditional media’s own Internet outlets – attract a growing degree of consumer attention and reliance. The strides being made by online media are creative and exciting, and the future evolution of sustainable business models is hard to predict. I am confident, however, that the answers will come from those actively engaged in media enterprises and not from Washington bureaucrats.

The Commission has known since at least the time of its 2002 ownership review that the Internet would have a profound effect on the media landscape, yet for various reasons the agency has been unable to fully adapt its regulations to the new realities. This time, I hope, we will get it right. Burdensome rules that have remained essentially intact for more than a decade should not be allowed to continue impeding, or potentially impeding, the ability of broadcasters and newspapers to survive and thrive in the digital era. It is not at all clear, of course, that relaxation or elimination of the existing rules necessarily will lead to a major wave of ownership consolidation. Many have predicted – and a question in the NOI suggests – that updating our regulations may be meaningless because traditional media owners now would prefer to spend their time and precious resources on new, unregulated online outlets rather than acquire any more of the heavily regulated ones. Yet even should this prediction to prove true, it is no reason for the Commission to continue to cling to inaction. We have a statutory obligation to eliminate unnecessary mandates and bring our regulations into line with the modern marketplace.

Nor does it seem necessary to begin this proceeding with a mere NOI rather than a Notice of Proposed Rulemaking (after all, the topic is hardly new to us). Nevertheless, I am pleased that the wide-ranging questions in the document include recognition of the legal precedent in this area and seek comment on how the recent court decisions may affect the scope of the Commission’s decision-making now. In fact, I expect that some commenters will draw upon the data and arguments they submitted just days ago in the U.S. Court of Appeals for the Third Circuit, which finally has reached the substantive review phase of pending court challenges to the Commission’s December 2007 media ownership decision. The appellate proceeding is moving on a separate but somewhat parallel track, and the court may act in time to inform our 2010 rulemaking effort.

Whether it does or not, however, it is high time for us to start moving. I therefore support the issuance of the NOI, even though I find some of its premises and questions disquieting. I am concerned, for example, by the suggestion that the Commission might attempt to use measures of “civic engagement,” such as voter turnout data or citizen knowledge of government officials and issues, to evaluate the degree to which broadcasters in a particular market are fulfilling the agency’s localism goal. The possibility of the government monitoring core protected speech should send shivers down the spine of anyone who cherishes liberty. I similarly question the possible focus on counting the number of journalists employed at broadcast stations. In a free society, the government has no business attempting to influence the Fourth Estate watchdogs of state action. The practice of journalism, a constitutionally

recognized freedom, is better off without the “help” of state intervention. I also wonder about the suggestion that our competition analysis should reflect the effect of our rules on “creators of content” apart from the “platform owners” (*e.g.*, broadcasters). I hope that commenters who weigh in on these and other questions bring their business and legal expertise, as well as their policy preferences, to bear on these issues.

I thank the staffs of the Media Bureau and the Office of Strategic Planning and Policy Analysis for their work on the Notice, and I look forward to reviewing the data and analyses that commenters will submit in response to it. I expect that the information we receive should allow us to move expeditiously to the next phase of this proceeding. In that regard, I commend the Chairman and the staff for issuing an open call for proposals on ownership studies to support the rulemaking effort. Although I may not agree with the concept for every study being contemplated, thus far the process for commissioning the analyses has been a good one.